

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MICHAEL HACKLEY ARCHITECTS,
P.C. AND MICHAEL HACKLEY,

Plaintiffs,

V.

LVLX, INC., JOHN LEE,
COMMERCIAL FINISH GROUP,
INC., JEFFREY WAY, AND
JOHN TROUTON

Defendants.

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CASE NO: JFM 02 CV 3363

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PLAINTIFFS MICHAEL HACKLEY AND MICHAEL HACKLEY ARCHITECTS, P.C.'S
REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION TO QUASH
DEFENDANT'S DEPOSITION OF RICHARD ZAMBITO

Plaintiffs, Michael Hackley and Michael Hackley Architects, P.C. submit this Reply to Defendant's Opposition to Plaintiff's Motion to Quash Defendants' Deposition of Richard Zambito. This Court is requested to consider this Reply as defendants have made unsupported allegations and raised unfounded issues of plaintiffs' integrity and bad faith.

Defendants request that this Court deny Plaintiffs' Motion to Quash Defendants' Deposition of Richard Zambito, and in support of this request, defendants offer unsupported allegations and conclusions. Plaintiffs contend that defendants are making a transparent attempt to put arguments before this Court that have no substance or basis in fact. Mr. Johns' assessment of the credibility of the witnesses is not pertinent to this Motion nor should it be before this Court.

As explained below, defendants' allegations are misguided, and granting plaintiffs' Motion will not unnecessarily enlarge, complicate and delay this litigation and further, that plaintiffs are not making an attempt to delay or complicate these proceedings, but are merely attempting to protect their right to cross examine.

ARGUMENT

Plaintiffs were unaware of the reason defendants wished to depose Richard Zambito until receipt of Defendants Opposition to Plaintiff's Motion to Quash his deposition. Thus, two days notice did not provide sufficient time to prepare.

Defendants completely mischaracterize plaintiff's deposition testimony regarding the "conference table" and then go on to give their opinion that plaintiff "lied" in his deposition. Defendants allege that "Hackley testified that he did not have such a table." The question posed to Mr. Hackley by defendants' counsel was, "And what kind of table do you have, or desk do you have at your office? Is it a Le Corbusier?" Mr. Hackley's response was "No, I don't." [Exhibit A, page 67, lines 10-13.] The question was posed in the present tense and Mr. Hackley does not currently have such a table. Mr. Hackley responded truthfully and counsel for defendants never asked whether Mr. Hackley had ever owned such a table. Plaintiffs contend that they did not copy the Le Corbusier, but this Motion to Quash is not the proper forum to argue the merits.

Plaintiffs rejected defendants' offer to extend the discovery deadline date for depositions only. Counsel for defendants insistently requested that plaintiffs agree to extend the discovery deadline for depositions only. As Defendants' had not sufficiently responded to plaintiffs discovery requests, and

ultimately, plaintiffs were forced to file a Motion to Compel, plaintiffs could not agree to a partial extension of the discover deadline.

Plaintiffs' Motion to Quash is well within the Federal Rules and it has been filed in good faith to exclude testimony to which Plaintiffs did not have the opportunity to cross examine. Contrary to defendants' bald assertions, plaintiffs rightfully objected to the deposition of Richard Zambito upon such insufficient notice and defendants persisted in conducting the deposition without plaintiffs being afforded the opportunity to cross examine.

CONCLUSION

For the reasons set forth above and in plaintiffs' Motion to Quash the Deposition of Richard Zambito, Plaintiff's Motion to Quash should be granted.

Respectfully submitted,

Dated: Jul 27, 2003

_____/s/_____
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copy of the foregoing was furnished electronically
this 27th day of July, 2003, to the following addressees:

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*Reply/Motion to
Amend
Complaint to
Join Party*